

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

PARTYLITE GIFTS, INC.,)
)
Plaintiff,)
)
v.) No.: 3:06-CV-170
) (VARLAN/SHIRLEY)
SWISS COLONY OCCASIONS, a/k/a)
ACCESS VENTURES, INC., SWISS)
COLONY, INC., AND KATHY WATKINS,)
)
Defendants.)

ORDER

This civil action is before the Court for consideration of plaintiff's motion to strike [Doc. 37] the Sur-Reply Declaration of Kathy Watkins [Doc. 36] pursuant to Local Rule 7.1(i). Plaintiff previously filed a motion for preliminary injunction [Doc. 8], and the Court granted defendants leave to file sur-reply affidavits in response to plaintiff's reply brief. *See* Doc. 32. As grounds for the instant motion, plaintiff argues that the sur-reply declaration only addresses an issue that was squarely put in issue by plaintiff's original motion papers, and it is improper for defendant Watkins to raise new material for the first time in her sur-reply declaration. Plaintiff seeks an order striking the declaration or, in the alternative, leave to file the declaration of Laurie Lawrence [Doc. 37-2]. Defendants respond in opposition to the motion, arguing that the subject matter of the sur-reply declaration was substantially related to the subject matter of plaintiff's reply brief.

The Court has carefully reviewed the briefs filed in support of, and in opposition to, the motion for preliminary injunction and concludes that it would benefit from the consideration of both the sur-reply declaration of defendant Watkins [Doc. 36] and the rebuttal declaration of Ms. Lawrence [Doc. 37-2]. Accordingly, the Court hereby **GRANTS IN PART** plaintiff's motion [Doc. 37], and the Court will consider the declaration of Ms. Lawrence, which has already been filed as an exhibit to the instant motion [Doc. 37-2]. The Court hereby **DENIES IN PART** plaintiff's motion [Doc. 37] to the extent it seeks to strike the sur-reply declaration of defendant Watkins [Doc. 36].

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE